

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

In the Matter of:

ORDER R4-2014-0026

Pregis Innovative Packaging, Inc.  
159 N. San Antonio Ave.  
Pomona, CA 91767

**SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY  
ORDER**

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order or Stipulated Order) is entered into by and between the Assistant Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board), on behalf of the Los Angeles Water Board Prosecution Team (Prosecution Team), and Pregis Innovative Packaging, Inc. (Discharger) (collectively Parties) and is presented by the Prosecution Team and Discharger to the Los Angeles Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60.

**SECTION I: RECITALS**

**Factual Background**

1. Discharger owns and operates Pregis Innovative Packaging, Inc., a packaging supplies manufacturer located at 159 N. San Antonio Ave., Pomona, California 91767 (facility). The subject facility discharges storm water associated with industrial activity, particularly activity encompassed by Standard Industrial Classification (SIC) code number 3086 – Plastics Foam Products, into waters of the United States.
2. Federal regulations require operators of specific categories of facilities where dischargers of storm water are associated with an industrial activity to obtain a National Pollutant Discharge Elimination System (NPDES) permit and to implement Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or to prevent pollutants associated with an industrial activity in storm water discharges and to authorize non-storm water discharges. The regulations require such operators either to apply for an individual NPDES permit or to seek coverage under an adopted storm water general permit.
3. Pursuant to federal regulations, the State Water Resources Control Board (State Water Board) adopted Water Quality Order No. 97-03-DWQ, NPDES Permit No. CAS000001, Waste Discharge Requirements for Dischargers for Storm Water Associated with Industrial Activities Excluding Construction Activities (Industrial General Permit), to regulate storm water discharges and authorized non-storm water discharges associated with industrial activities set forth in the federal regulations. To obtain coverage, facility operators must submit a Notice of Intent (NOI) and comply with the terms and conditions of the Industrial General Permit.
4. Pregis has submitted a NOI and is subject to the terms and conditions of the Industrial General Permit.

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5. Section B. 14 of the Industrial General Permit requires all facility operators to submit an annual report documenting its sampling and analyses, observations, and an annual comprehensive site compliance evaluation, by July 1 of each year.
6. The Regional Board alleges that Discharger violated the Industrial General Permit by submitting incomplete information in its 2008-2009 and 2009-2010 annual reports and failing to submit its 2010-2011, 2011-2012, and 2012-2013 annual reports by the respective July 1 deadlines.
7. Regional Board staff did not issue Notices of Noncompliance in regard to the 2008-2009, 2009-2010, 2011-2012, or 2012-2013 annual reports.
8. On August 10, 2012, the Regional Board staff issued a Notice of Noncompliance letter to Discharger by certified mail, return receipt requested. Discharger was notified of its obligation to submit an annual report for 2010-2011 and to comply with the General Permit, and the penalties for such non-compliance. The Regional Board received the return receipt for this notice, which indicates Discharger received the notice on August 13, 2012. No response was received.
9. On August 5, 2013, the Regional Board's Assistant Executive Officer issued a second Notice of Violation letter to the Discharger by certified mail, return receipt requested. This letter again informed the Discharger that it was in violation of the Industrial General Permit and that the Regional Board may seek penalties for such non-compliance.
10. Section A. of the Industrial General Permit requires the development and implementation of a storm water pollution prevention plan (SWPPP) in which the facility identifies and evaluates sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-storm water discharges, and identifies for implementation site-specific best management practices (BMPs) to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-storm water discharges.
11. Section A. 6 of the Industrial General Permit requires that a SWPPP include both a narrative description of the facility's industrial activities and associated potential pollutant sources and a summary of that information that also identifies related BMPs. Section A. 8 of the Industrial General Permit requires that those BMPs be implemented.
12. On September 27, 2013, counsel for the Discharger contacted the Regional Board to discuss the August 5, 2013 Notice of Violation and options for resolving the same.
13. On November 1, 2013, counsel for the Regional Board contacted counsel for the Discharger to discuss violations previously alleged by the Regional Board and potential violations self-identified by the Discharger.
14. On November 27, 2013, counsel for the Discharger identified additional self-identified potential violations for inclusion in this Stipulated Order.

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15. The potential violations include past benchmark exceedances for TSS (2008-2009, 2011-2012, 2012-2013, and October 2013), specific conductance (2008-2009, 2011-2012, and 2012-2013), oil and grease (2008-2009), and low pH (2009-2010, 2011-2012, and 2012-2013); no evidence that the SWPPP was updated to include revised BMPs in response to the aforementioned benchmark exceedances; failure to maintain records of an Annual Comprehensive Site Compliance Evaluation (ACSCE) in 2010-2011 and 2011-2012; failure to perform the ACSCE within the 2012-2013 reporting year (conducted in August 2013); failure to document collection of storm water samples from two storm events in 2009-2010 and 2010-2011; failure to maintain storm water training records; and failure to maintain records of monthly and quarterly visual monitoring in 2010-2011, 2011-2012, and 2012-2013.
16. On December 4, 2013, Regional Board staff conducted a site inspection of the facility. During that inspection, Regional Board staff identified the following SWPPP and BMP violations: Incomplete employee training records made available at the facility during the inspection; a rack used for cleaning equipment outdoors was exposed to precipitation, and residues and stains from melted plastic were seen on the rack and ground below with no BMPs in place; and plastic pellets, plastic debris, and oil spills were observed on the ground outdoors without BMPs in place, indicating poor housekeeping practices. Those violations were discussed with Discharger at the site inspection and a Notice of Violation was issued on January 10, 2014.
17. On December 6, 2013, Discharger submitted photographs to the Regional Board that exhibited the correction of several of the violations identified during the December 4, 2013 site inspection and later in the January 10, 2014 NOV.
18. On December 20, 2013, Discharger submitted a revised SWPPP in response to remaining violations that were identified at the December 4, 2013 site inspection and in the January 10, 2014 NOV.
19. On December 20, 2013, Discharger submitted verification that the Regional Board had received Respondent's 2008-09 Annual Report by July 6, 2009 and verification that the Regional Board had received the 2009-10 Annual Report by June 13, 2011. On December 20, 2013, Discharger also submitted 2010-11, 2011-12, and 2012-2013 Annual Reports to remedy late and/or incomplete submissions of the same.

**Legal Authority**

20. Water Code section 13399.31, subdivision (b) requires the Regional Board to notify each discharger who failed to submit an annual report, as required by the Regional Board, of the discharger's noncompliance and the penalties therefrom. If the discharger, who is so notified, fails to submit an annual report within 30 days of that notification, Water Code section 13399.31, subdivision (c) requires that the Regional Board send a second notice to that discharger. If the discharger then fails to submit the required annual report within 60 days from the first notice, the Regional Board shall impose administrative civil liability pursuant to Water Code section 13399.33, subdivisions (c) and (d).

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21. Under Water Code section 13399.33, subdivision (c), the Regional Board shall impose administrative civil liability in an amount that is not less than one thousand dollars (\$1,000).
22. Furthermore, in accordance with Water Code section 13385 subdivision (c), failure to submit an annual report may result in penalties of up to ten thousand dollars per day (\$10,000) for each day in which a violation occurs.
23. Pursuant to Water Code section 13399.33, subdivision (d) the Regional Board shall recover the costs incurred by the Regional Board with regard to a discharger that fails to submit an annual report in accordance with Water Code section 13399.31.
24. Water Code section 13385 subdivision (a)(2) provides that any person who violates a NPDES waste discharge requirement shall be subject to administrative civil liability pursuant to Water Code section 13385 subdivision (c). Pursuant to Water Code section 13385 subdivision (c), the Regional Board may impose ten thousand dollars (\$10,000) per day for each day in which a discharger violates an NPDES waste discharge requirement.

**Settlement**

25. Discharger is alleged to have violated the Water Code by failing to submit complete annual reports, as noted above, by July 1 of the specified years.
26. Based on the above facts, the mandatory minimum penalty assessed for the annual report violations is one thousand dollars (\$1,000).
27. Discharger is also alleged to have violated the Water Code by failing to fully implement the facility SWPPP, as identified above, in accordance with Industrial General Permit requirements. This violation is subject to a discretionary administrative civil liability penalty of up to ten thousand dollars (\$10,000) per day.
28. On November 17, 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing discretionary administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing discretionary civil liability.
29. Violations of Water Code section 13385 are assessed on a per day basis. Although the Prosecution Team suspects that the failure to fully implement the facility SWPPP in accordance with the Industrial General Permit was ongoing, the actual number of days of violation alleged in this Stipulated Order is based on observations made during the site inspection conducted on December 4, 2013.
30. Based on the required factors, which have been considered using the methodology in the Enforcement Policy, as explained in detail in the Calculation of Liability (Exhibit A) which are hereby incorporated by reference, the administrative civil liability assessed for alleged SWPPP violations is four thousand five hundred fifty dollars (\$4,550).

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31. In pursuing these particular violations, the Regional Board incurred staff costs totaling four thousand nine hundred and fifty dollars (\$4,950). This amount is based on assessing 33 hours of enforcement staff time spent on meetings and communications at a rate of one hundred fifty dollars (\$150) per hour. Of those, 13 hours were spent on enforcement related to the identified annual reports, and 20 hours were spent on enforcement related to failing to fully implement the facility SWPPP.
32. The final liability amount for these violations is ten thousand five hundred dollars (\$10,500).
33. The Parties have engaged in settlement negotiations and agree to fully settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the Regional Board or its delegee for adoption as an Order by settlement, pursuant to Government Code section 11415.60.
34. The Prosecution Team believes that no further action is warranted concerning the identified violations, except as provided in this Stipulated Order and that this Stipulated Order is in the best interest of the public.

**SECTION II: STIPULATIONS**

The Parties stipulate to the following terms for a Stipulated Order:

1. **Jurisdiction:** The Parties agree that the Regional Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Stipulated Order.
2. **Administrative Civil Liability:** Within 30 days of adoption of this Stipulated Order, Discharger shall remit **ten thousand five hundred dollars (\$10,500)** in the form of two separate checks. One check shall be in the amount of two thousand nine hundred fifty dollars (\$2,950), made payable to the *State Water Resources Control Board Waste Discharge Permit Fund*. A second check shall be in the amount of seven thousand five hundred fifty dollars (\$7,550), made payable to the *State Water Resources Control Board Cleanup and Abatement Account*. Both checks shall indicate "Order No. R4-2014-0026" and shall be sent to the following address:

State Water Resources Control Board  
Division of Administrative Services  
ATTN: Accounting  
1001 "I" Street, 18th Floor  
Sacramento, California 95814

A copy of each check shall also be mailed to both of the following addresses:

Regional Water Quality Control Board, Los Angeles Region  
ATTN: Hugh Marley  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

Ms. Naomi Kaplowitz  
Office of Enforcement

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State Water Resources Control Board  
1001 "I" Street, 16th Floor  
Sacramento, California 95814

3. **Scope of Order:** Upon adoption by the Regional Board, or its delegee, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged in this Order or which could have been asserted based on the specific facts alleged in this Stipulated Order against Discharger as of the effective date of this Stipulated Order. The provisions of this Paragraph are expressly conditioned on Respondent's full payment of the administrative civil liability by the deadline specified in Paragraph 2.
4. **Denial of Liability:** Neither this Stipulated Order, nor any payment pursuant to the Order, shall constitute evidence of, or be construed as, a finding, adjudication, or acknowledgement of any fact, law, or liability, nor shall it be construed as an admission of violation of any law, rule, or regulation. However, this Order and/or any actions of payment pursuant to the Order may constitute evidence in actions seeking compliance with this Order. This Order may be used as evidence of a prior enforcement action in future actions by the Regional Board against Respondent, but shall not be admissible as evidence of the specific alleged violations.
5. **Covenant not to Sue:** Upon the effective date of this Stipulated Order, Discharger shall and does release, discharge, and covenant not to sue or pursue any civil or administrative claims against the Regional Board, including its officers, agents, directors, employees, contractors, subcontractors, attorneys, representatives, predecessors-in-interest, and successors and assigns for any and all claims or causes of action, of every kind and nature whatsoever, in law and equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise out of or are related to this action.
6. **Public Notice:** Discharger understands that federal regulations require that the Regional Board publish and allow the public thirty (30) days to comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). This Stipulated Order will be noticed for a 30-day public comment period prior to being presented to the Regional Board, or its delegee, for adoption. In the event objections are raised during the public review and comment period, the Regional Board or its delegee may, under certain circumstances, require a public hearing regarding the Stipulated Order. In that event, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the proposed Order as necessary or advisable under the circumstances. Discharger and agrees that it may not rescind or otherwise withdraw approval of this proposed Stipulated Order.
7. **Procedure:** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

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8. **Waivers:** In the event that this Stipulated Order does not take effect because it is not approved by the Regional Board, or its delegee, or is vacated in whole or in part by the State Water Resources Control Board or a court, the Parties acknowledge that the Prosecution Team may proceed to a contested evidentiary hearing before the Regional Board to determine whether to assess administrative civil liability for the underlying alleged violations, or may continue to pursue settlement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
  - a. Objections related to prejudice or bias of any of the Regional Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Regional Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions, and therefore may have formed impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter; or
  - b. Laches or delay or other equitable defenses based on the time period that the order or decision by settlement may be subject to administrative or judicial review.
9. **Appeals:** Discharger hereby waives its right to appeal this Stipulated Order to the State Water Resources Control Board, a California Superior Court and/or any California appellate level court.
10. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Prosecution Team or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
11. **Water Boards not Liable:** Neither the Regional Board members nor the Regional Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or omissions by Discharger or its respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order, nor shall the Regional Board, its members or staff be held as parties to or guarantors of any contract entered into by Respondent, or its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order.
12. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Regional Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Regional Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Regional


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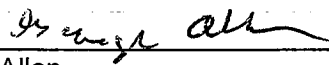
Board reserves all rights to take additional enforcement actions, including without limitation the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Order.

13. **Regulatory Changes:** Nothing in this Stipulated Order shall excuse Discharger from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.
14. **Authority to Enter Stipulated Order:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
15. **Integration:** This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.
16. **Modification:** This Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by the Regional Board or its delegee.
17. **Interpretation:** This Stipulated Order shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
18. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

**IT IS SO STIPULATED:**

  
\_\_\_\_\_  
Paula Rasmussen  
For the Regional Board Prosecution Team

4-17-2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
George Allen  
For Pregis Innovative Packaging, Inc.

4/17/14  
\_\_\_\_\_  
Date

**HAVING CONSIDERED THE PARTIES' STIPULATIONS, THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:**

19. Issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in



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accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.

20. The foregoing Stipulation is fully incorporated herein and made part of this Order.

21. The liability imposed by this Order is at a level that recovers the economic benefits derived from the acts that constitute the violations. In addition, this settlement recovers the costs incurred by the staff of the Regional Board for this matter.

PURSUANT TO SECTIONS 13385 AND 13399.33 OF THE CALIFORNIA WATER CODE AND SECTION 11415.60 OF THE CALIFORNIA GOVERNMENT CODE, THE EXECUTIVE OFFICER **HEREBY ADOPTS THIS ORDER.**

\_\_\_\_\_  
Samuel Unger  
Executive Officer  
Los Angeles Regional Water Quality Control Board

\_\_\_\_\_  
Date

## EXHIBIT A

### Calculation of Liability

#### **Violation #1: Missing 2010-2011 Annual Report**

This violation is subject to administrative civil liability in an amount that is not less than one thousand dollars (**\$1,000**).

The mandatory minimum penalty amount for Violation #1 is, therefore, one thousand dollars (**\$1,000**). The Regional Board is also required by statute to recover staff costs incurred with regard to the violation. The Regional Board has incurred **\$1,950** in staff costs associated with the investigation and enforcement of Violation #1. This represents approximately 13 hours of staff time devoted to meetings and communications, and drafting the Notice of Violations at a rate of \$150 an hour. In accordance with the Enforcement Policy, this amount is added to the Combined Total Base Liability Amount.

#### **Violation #2: Deficient Stormwater Pollution Prevention Plan (SWPPP)**

##### **Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is not a discharge violation.

##### **Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is not a discharge violation.

##### **Step 3 – Per Day Assessment for Non-Discharge Violations**

The "per day" factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Enforcement Policy defines violations of moderate harm as those that indicate a substantial potential for harm to beneficial uses. The Stormwater Pollution Prevention Plan's (SWPPP) main objectives are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to identify and implement site-specific best management practices (BMPs) to reduce or prevent pollutants associated with industrial activities in storm water discharges. Because failing to have adequate BMPs, in the case of a rain event, could cause significant harm to beneficial uses, the violation presents a substantial threat. Therefore, the potential for harm to beneficial uses is determined to be **moderate**.

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The requirement in the Industrial Storm Water General Permit Order 97-03-DWQ (Industrial General Permit) to develop and implement a SWPPP is instrumental to the industrial stormwater program. The ISW Permit requires, among other things, that the SWPPP include a description of material handling and storage areas, and particulate deposit locations. In this case, the SWPPP failed to include these descriptions. However, the SWPPP did include other required components. The deviation from applicable requirements, thus, is determined to be **moderate**. Therefore, a **Per Day Factor of 0.35** is assigned.

**Violation #2 - Initial Liability Amount**

The initial liability amounts for the violations calculated on a per-day basis, are as follows:

**Per Day Liability:**

a) Deficient SWPPP  $\$10,000 \times (0.35) \times (1 \text{ day}) = \$3,500$

**Total Initial Liability = \$3,500**

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

**Culpability**

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.3** because the Discharger's failure to implement adequate BMPs fell below the prevailing industry practice.

**Cleanup and Cooperation**

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The discharger exhibited the cleanup and cooperation that is expected of a reasonable actor by submitting photographs of its cleanup efforts soon after the violations observed at the site inspection were brought to its attention. Therefore, a multiplier value of **1** was given.

**History of Violations**

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1** was used because there have been no previous violations other than the alleged violations currently at issue in this case.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Adjusted Initial Liability Amount determined in Step 3.

**Violation #2 - Total Base Liability Amount**

Adjusted Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

a) Deficient SWPPP = \$4,550 ( $\$3,500 \times 1.3 \times 1 \times 1$ )

Total Base Liability = **\$4,550**

**STEP 6 – Ability to Pay and Continue in Business**

- a) Violation #2 Total Base Liability Amount: **\$4,550**
- b) Discharger stipulates to its ability to pay the final liability amount.

Based on the reasons discussed above, an ability to pay factor of **1** has been applied to the Combined Total Base Liability Amount.

**STEP 7 – Other Factors as Justice May Require**

- a) Violation #2 Total Base Liability Amount: **\$4,550 + \$3,000 (staff costs) = \$7,550**
- b) Discussion: The Regional Board has incurred **\$3,000** in staff costs associated with the investigation and enforcement of Violation #2. This represents approximately 20 hours of staff time devoted to inspecting the facility, meetings and communications, and drafting the Notice of Violations at a rate of \$150 an hour. In accordance with the Enforcement Policy, this amount is added to the Combined Total Base Liability Amount.

**STEP 8 – Economic Benefit**

- a) Total Estimated Economic Benefit for Violation #2: **\$0**
- b) Discussion: This amount represents the economic benefit of savings or monetary gain derived from the act or omission that constitutes the violation. In this instance, because the SWPPP violations occurred on one day and were corrected immediately, the economic benefit from the omission that constituted developing and implementing an adequate SWPPP was de minimis.

**STEP 9 – Maximum and Minimum Liability Amounts**

- a) Minimum Liability Amount: Economic Benefit + 10%  
Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Regional Board Prosecution Team estimates that the Discharger incurred no economic benefit associated with this violation. Therefore, there is no minimum liability amount.
- b) Total Maximum Liability Amount for Violation #2: **\$10,000**

Discussion: The maximum administrative liability amount is the maximum amount allowed by Water Code section 13385.

The proposed liability falls within these maximum and minimum liability amounts.

**STEP 10 – Final Liability Amount for both Violations**

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for the alleged violations in Violation Categories #1 through #2 is **ten thousand five hundred dollars (\$10,500)**.